

G. Thomas Martin, III (SBN 218456)  
Krohn & Moss, Ltd.  
10474 Santa Monica Blvd., Suite 401  
Los Angeles, CA 90025  
Tel: 323-988-2400 x252  
Fax: 866-583-3695  
tmartin@consumerlawcenter.com  
Attorneys for Plaintiff,  
HEIDI P. SPEARER

UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

RS

3582

HEIDI P. SPEARER,

Plaintiff,

v.

FIRST NATIONAL COLLECTION

BUREAU, INC.,

Defendant.

Case No.:

COMPLAINT AND DEMAND FOR  
JURY TRIAL

(Unlawful Debt Collection Practices)

VERIFIED COMPLAINT

HEIDI P. SPEARER (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against FIRST NATIONAL COLLECTION BUREAU, INC., (Defendant):

**INTRODUCTION**

- Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).
- Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. (RFDCPA).

**JURISDICTION AND VENUE**

- Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court

1 without regard to the amount in controversy,” and 28 U.S.C. 1367 grants this court  
2 supplemental jurisdiction over the state claims contained therein.

3 4. Defendant conducts business in the state of California, and therefore, personal  
4 jurisdiction is established.

5 5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

6 6. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

7 **PARTIES**

8 7. Plaintiff is a natural person residing in Union City, Alameda County, California.

9 8. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to  
10 Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5)  
11 and Cal. Civ. Code § 1788.2(h).

12 9. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6) and Cal. Civ.  
13 Code §1788.2(c), and sought to collect a consumer debt from Plaintiff.

14 10. Defendant is a national company with its headquarters in Sparks, Washoe County,  
15 Nevada.

16 11. Defendant acted through its agents, employees, officers, members, directors, heirs,  
17 successors, assigns, principals, trustees, sureties, subrogees, representatives, and  
18 insurers.

19 **FACTUAL ALLEGATIONS**

20 12. Defendant constantly and continuously places collection calls to Plaintiff seeking and  
21 demanding payment for an alleged debt owed by “Raj.”

22 13. Plaintiff does not owe the debt.

23 14. Defendant leaves voicemail messages on Plaintiff’s phone asking “Raj” to return the  
24 call to 800-824-6191.

25 15. Plaintiff has repeatedly informed Defendant that they are contacting the wrong person

1 but Defendant continues to call despite this.

2 16. Defendant contacts Plaintiff at 510-477-0930.

3 17. Defendant calls Plaintiff from "blocked" telephone numbers.

4 18. Defendant calls Plaintiff and fails to provide meaningful disclosure of the caller's  
5 identity.

6 19. Defendant calls Plaintiff and fails to disclose the call is from a debt collector.

7 20. Defendant did not send Plaintiff a debt validation letter.

8 **COUNT I**  
9 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

10 21. Defendant violated the FDCPA based on the following:

11 a. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring  
12 repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

13 b. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without  
14 meaningful disclosure of the caller's identity.

15 c. Defendant violated §1692e(2)(A) of the FDCPA by falsely representing the  
16 character and amount of a debt because Plaintiff does not owe the debt alleged by  
17 Defendant.

18 d. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an  
19 attempt to collect a debt by continuing to place telephone calls to Plaintiff in an  
20 attempt to collect a debt after being repeatedly informed that Defendant has the  
21 wrong telephone number.

22 e. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an  
23 attempt to collect a debt by placing collection calls to Plaintiff from "blocked"  
24 numbers.

25 f. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an

1 attempt to collect a debt by placing collection calls to Plaintiff and failing to  
 2 provide meaningful disclosure of the caller's identity.

3 g. Defendant violated §1692e(11) of the FDCPA by failing to disclose in  
 4 subsequent communications that the communication was from a debt collector.

5 h. Defendant violated §1692g(a)(1-5) by failing to provide appropriate notice of the  
 6 debt within 5 days after the initial communication including: (1) the amount of  
 7 the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement  
 8 that unless the consumer, within 30 days after receipt of the notice, disputes the  
 9 validity of the debt, or any portion thereof, the debt will be assumed to be valid  
 10 by the debt collector; (4) a statement that if the consumer notifies the debt  
 11 collector in writing within the 30-day period that the debt, or any portion thereof,  
 12 is disputed, the debt collector will obtain verification of the debt or a copy of a  
 13 judgment against the consumer and a copy of such verification or judgment will  
 14 be mailed to the consumer by the debt collector; and (5) a statement that, upon  
 15 the consumer's written request within the 30-day period, the debt collector will  
 16 provide the consumer with the name and address of the original creditor, if  
 17 different from the current creditor.

18 22. As a direct and proximate result of one or more or all of the statutory violations above  
 19 Plaintiff has suffered emotional distress (see Exhibit A).

20 WHEREFORE, HEIDI P. SPEARER, respectfully requests judgment be entered against  
 21 Defendant, FIRST NATIONAL COLLECTION BUREAU, INC., for the following:

22 23. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection  
 23 Practices Act,

24 24. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

25 25. Actual damages,

1 26. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,  
2 *15 U.S.C. 1692k*

3 27. Any other relief that this Honorable Court deems appropriate.

4 **COUNT II**  
5 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**  
6 **PRACTICES ACT**

7 28. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as  
8 the allegations in Count II of Plaintiff's Complaint.

9 29. Defendant violated the RFDCPA based on the following:

- 10 a. Defendant violated §1788.11(b) of the RFDCPA by placing telephone calls  
11 without meaningful disclosure of the caller's identity.  
12 b. Defendant violated §1788.11(d) of the RFDCPA by causing Plaintiff's telephone  
13 to ring repeatedly and continuously so as to annoy Plaintiff.  
14 c. Defendant violated §1788.11(e) of the RFDCPA by placing collection calls to  
15 Plaintiff with such frequency that was unreasonable and constituted harassment.  
16 d. Defendant violated the §1788.17 of the RFDCPA by continuously failing to  
17 comply with the statutory regulations contained within the FDCPA, *15 U.S.C. §*  
18 *1692 et seq.*

19 30. As a direct and proximate result of one or more or all of the statutory violations above  
20 Plaintiff has suffered emotional distress (see Exhibit A).

21 WHEREFORE, Plaintiff, JESSICA ALLEE, respectfully requests judgment be entered  
22 against Defendant, FIRST NATIONAL COLLECTION BUREAU, INC., for the following:

23 31. Declaratory judgment that Defendant's conduct violated the Rosenthal Fair Debt  
24 Collection Practices Act,

25 32. Statutory damages pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal.*  
*Civ. Code §1788.30(b)*,

1 33. Actual damages,

2 34. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection  
3 Practices Act, *Cal. Civ Code* § 1788.30(c), and

4 35. Any other relief that this Honorable Court deems appropriate.  
5

6 **DEMAND FOR JURY TRIAL**

7 PLEASE TAKE NOTICE that Plaintiff, HEIDI P. SPEARER, demands a jury trial in this  
8 case.

9 RESPECTFULLY SUBMITTED,

10 DATED: July 31, 2009

KROHN & MOSS, LTD.

11  
12 By: 

13 G. Thomas Martin, III  
14 Attorney for Plaintiff  
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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF CALIFORNIA

Plaintiff, HEIDI P. SPEARER, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, HEIDI P. SPEARER, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 7-15-09

Heidi P. Spearer  
HEIDI P. SPEARER

**EXHIBIT A**



I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- |   |                                      |                          |
|---|--------------------------------------|--------------------------|
| 1. Sleeplessness  | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 2. Fear of answering the telephone                            | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 3. Nervousness  | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 4. Fear of answering the door                                 | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 5. Embarrassment when speaking with family or friends         | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 6. Depressions (sad, anxious, or "empty" moods)               | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 7. Chest pains  | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 8. Feelings of hopelessness, pessimism                        | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 9. Feelings of guilt, worthlessness, helplessness             | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 10. Appetite and/or weight loss or overeating and weight gain | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 11. Thoughts of death, suicide or suicide attempts            | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 12. Restlessness or irritability                              | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 13. Headache, nausea, chronic pain or fatigue                 | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 14. Negative impact on my job                                 | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 15. Negative impact on my relationships                       | <input checked="" type="radio"/> YES | <input type="radio"/> NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities:

*Anger, frustration that they kept calling even tho I explained several times that they had the wrong number AND requested they correct their records - they kept calling and calling early morning was the worst - they often woke me up in the morning.*

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 7-15-09

Heidi Spearer  
Signed Name

Heidi Spearer  
Printed Name